

**LEGISLATIVE SERVICES AGENCY  
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**FISCAL IMPACT STATEMENT**

**LS 7511**

**BILL NUMBER:** HB 1418

**NOTE PREPARED:** Jan 10, 2011

**BILL AMENDED:**

**SUBJECT:** Child Protection Registry.

**FIRST AUTHOR:** Rep. McNamara

**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:** ☒ **GENERAL**  
☒ **DEDICATED**  
**FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** This bill has the following provisions:

- (1) Requires the Consumer Protection Division of the Office of the Attorney General (Division) to establish the Child Protection Registry.
- (2) Permits a person to register "contact points" that belong to a minor with the registry.
- (3) Defines a contact point to be: (a) an electronic mail address; (b) an instant message identity; (c) a mobile or other telephone number; or (d) a similar point of communication defined by rule by the division.
- (4) Permits a school or other institution that primarily serves minors to register its domain name with the registry.
- (5) Provides that a person may not send a communication to a contact point that has been registered for more than 30 days if the communication: (a) has the primary purpose of advertising or promoting a product or service that a minor is prohibited by law from purchasing; or (b) contains or has the primary purpose of advertising or promoting material that is harmful to minors, as described in Indiana law.
- (6) Authorizes persons who send such communications to check the registry for a fee to enable compliance with the law.
- (7) Authorizes the Division to adopt rules to administer the statute and the registry.
- (8) Provides for civil enforcement of the statute and criminal penalties.

**Effective Date:** July 1, 2011.

**Explanation of State Expenditures:** *Establishment of a Child Protection Registry:* This bill will increase the expenditures of the Office of the Attorney General, specifically the Consumer Protection Division, to provide a Child Protection Registry.

The Child Protection Registry would be available to all state residents who wish to register contact points (email addresses, instant messaging identity, mobile or other telephone numbers, or fax number) in much the same fashion as the federal “Do Not Call” registry. The purpose of the Child Protection Registry is to shield minors from material that is considered harmful to minors (e.g., advertising of adult products like alcohol and tobacco as well as pornography). Registration in the Child Protection Registry is to be free.

Businesses who wish to send adult communications would be required to scrub their contact lists of individuals who are registered in the state Child Protection Registry. Businesses would be charged \$3 per 100 contact points in the Registry (up to a maximum charge of \$72,000 per year, or 2.4 million contact points). It is assumed amounts collected from these fees would finance the costs of the Child Protection Registry.

Currently the states of Michigan and Utah utilize a Child Protection Registry which is contracted out to UnSpam, Inc. Contract expenditures for these states are not known.

Assuming (1) the Office of the Attorney General contracts out the requirement to UnSpam, Inc or another contractor and (2) the costs of maintaining the contract are paid for by fees collected from businesses that wish to send adult communications, this bill will not increase state expenditures to maintain the Registry.

*Enforcement:* This bill will increase the workload of the Office of the Attorney General to prosecute (both in civil and criminal court) businesses who violate the provisions of the Child Protection Registry.

*Civil:* Under the bill, businesses who are determined to have sent adult communications to individuals who are listed on the Registry are subject to both civil *and* criminal penalties. Enforcing the requirements of the bill would fall on the Office of the Attorney General. The Attorney General can seek injunction against violating businesses to enjoin future violations, as well as civil penalties of \$10,000 for the first violation and \$25,000 for each violation after the first violation. Each communication sent to a registered contact point in the Registry is considered a separate violation.

For example, if a business sent adult communication to 10 individuals listed in the Registry, approximately \$235,000 from civil penalties could be collected (\$10,000 for the first offense and \$25,000 for the remaining 9 offenses).

*Criminal:* The bill provides that individuals who recklessly, knowingly, or intentionally use information obtained from the Attorney General in an unauthorized way commit a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. Assuming offenders can be housed in existing facilities with no additional staff, the marginal cost for medical care, food, and clothing is approximately \$4,818 annually, or \$13.20 daily, per prisoner. However, any additional expenditures are likely to be small. The average length of stay in Department of Correction (DOC) facilities for all Class D felony offenders is approximately ten months.

**Explanation of State Revenues:** *Civil Court Fee Revenue:* If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 would be assessed when a civil case is filed, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court. In addition, some or all of the document storage fee (\$2), automated record keeping fee (\$7), judicial salaries fee (\$18), public defense administration fee (\$3), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the

state General Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

*Criminal Court Revenue:* The bill establishes that individuals who recklessly, knowingly, or intentionally violate communication requirements with individuals on the Registry are guilty of either a Class B misdemeanor or a Class A misdemeanor, depending on the number of violations an individual commits (or the means of communication). Each communication sent in violation of this article is considered a separate offense, so there is the potential for a business to be charged with several Class B and Class A misdemeanors.

If additional court cases occur and fines are collected, revenue to both the Common School Fund (from criminal fines) and the state General Fund (from court fees) would increase. The maximum fine for a Class D felony, a Class A misdemeanor, and a Class B misdemeanor is \$10,000, \$5,000, and \$1,000, respectively.

**Explanation of Local Expenditures:** *Criminal Provisions:* A Class A misdemeanor is punishable by up to one year in jail, and a Class B misdemeanor is punishable by up to 180 days in jail. Additionally, if more defendants are detained in county jails prior to their court hearings for Class D felonies, local expenditures for jail operations may increase.

**Explanation of Local Revenues:** *Civil Court Fee Revenue:* If additional civil actions occur, local governments would receive revenue from the following sources. The county general fund would receive 27% of the \$100 civil costs fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

*Penalty Provision:* If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from court fees. However, any change in revenue would likely be small.

**State Agencies Affected:** Department of Correction; Office of the Attorney General.

**Local Agencies Affected:** Trial and civil courts; local law enforcement agencies.

**Information Sources:** Michigan State Legislature; Utah State Legislature.

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